

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KELLY RAINEY

Plaintiff,

Case No. 2021-CV-01185

vs.

JESSE LEWIS, A. CASTILLO,
I. CHIAPETE, R. RAGER, J. MULLER,
DONALD E. VANDERVEST, K. DOBESH,
R. CHRISTMAN AND S. RADTKE

Defendants.

ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES

NOW COME Defendants, Jesse Lewis, A. Castillo (more properly identified as Anthony Castillo), Christopher Schmaling, I. Chiapete (more properly identified as Jeffrey Chiapete), R. Rager (more properly identified as Richard Rager), J. Muller (more properly identified as James Muller), Donald E. Vandervest, K. Dobesh (more properly identified as Keith Dobesh), R. Christman (more properly identified as Robert Christman) and S. Radtke (more properly identified as Scott Radtke), by and through their attorneys, MEISSNER TIERNEY FISHER & NICHOLS S.C., by Jacob A. Sosnay, and as and for their Answer to the Plaintiff's Complaint and Affirmative Defenses, admit, deny and affirmatively allege as follows:

A. PARTIES

1. These answering defendants deny information sufficient to form a belief as to the allegations contained in paragraph A.1. of Plaintiff's Complaint and therefore deny the same.

2. These answering defendants admit Jesse Lewis is a citizen of Wisconsin residing in Racine County and that, at times relevant to this lawsuit, he worked for Racine County Sheriff's Office.

B. STATEMENT OF CLAIM

These answering defendants deny information sufficient to form a belief as to the allegations set forth in Plaintiff's narrative Statement of Claim and therefore deny all allegations set forth therein. These answering defendants further deny violating Plaintiff's civil rights in any way and otherwise deny liability to Plaintiff under any theory or cause of action.

C. JURISDICTION

These answering defendants admit Plaintiff is suing based on an alleged violation of federal law pursuant to 28 U.S.C. §1331.

D. RELIEF WANTED

These answering defendants deny Plaintiff is entitled to the relief he seeks.

E. JURY DEMAND

These answering defendants admit Plaintiff demands trial by jury.

AFFIRMATIVE DEFENSES

As and for affirmative defenses, these answering defendants respectfully submit the following:

A. The injuries and damages sustained by Plaintiff, if any, were caused in whole or in part by the acts or omissions of Plaintiff or persons other than these answering defendants;

B. Plaintiff may have failed to mitigate his damages;

C. The Complaint fails to state a claim upon which relief may be granted;

D. At all times relevant to this lawsuit, these answering defendants acted in good faith, were not reckless or motivated by malice or intent to harm;

E. Plaintiff's claims may be barred by the applicable statute of limitations;

F. These answering defendants are immune from suit under common law and statutory immunities and privileges, including, but not limited to, qualified and discretionary immunity;

G. These answering defendants are immune from suit under the doctrine of judicial, quasi-judicial, legislative, and quasi-legislative immunity;

H. Plaintiff may have failed to fully exhaust his administrative remedies pursuant to 42 U.S.C. § 1997e(a);

I. Plaintiff's claims for damages for mental distress absent any prior physical injury are precluded under 42 U.S.C. § 1997e(e);

J. Plaintiff's claims fail to conform to the requirements of the Prison Litigation Reform Act, 42 U.S.C. § 1997e, and therefore the complaint must be dismissed; and

K. To the extent that Plaintiff presents claims under Wisconsin state law, they are subject to the limitations, prerequisites, and immunities contained within Wisconsin Statutes § 893.80.

WHEREFORE, the Defendants, Jesse Lewis, A. Castillo (more properly identified as Anthony Castillo), Christopher Schmaling, I. Chiapete (more properly identified as Jeffrey Chiapete), R. Rager (more properly identified as Richard Rager), J. Muller (more properly identified as James Muller), Donald E. Vandervest, K. Dobesh (more properly identified as Keith Dobesh), R. Christman (more properly identified as Robert Christman) and S. Radtke (more properly identified as Scott Radtke) respectfully request judgment as follows:

1. For dismissal of the Complaint upon its merits;
2. For reasonable actual attorney's fees pursuant to 42 U.S.C. § 1983(3);
3. For the costs, disbursements, and fees of this action; and
4. For such other relief as this Court deems just and equitable.

THESE ANSWERING DEFENDANTS DEMAND TRIAL BY JURY

Dated this 5th day of January, 2022.

MEISSNER TIERNEY FISHER & NICHOLS S.C.

/s/ Jacob A. Sosnay
Jacob A. Sosnay
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